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REMARKS

To date, the Examiner has not indicated that the subject matter of the information disclosure statement (IDS) filed November 20, 2001 has been properly considered. A copy of such IDS is submitted herewith. If the Examiner requires additional copies of any reference(s), applicant invites the Examiner to contact the undersigned. Documentation in the file wrapper of the instant application confirming the Examiner's consideration of the appropriate reference(s) is respectfully requested.

The Examiner has rejected Claims 11-20 under 35 U.S.C. 101 as being directed toward non-statutory subject matter. Applicant has clarified Claim 11 to include a computer program product "embodied on a tangible computer readable medium" in order to avoid such rejection.

The Examiner has rejected Claims 1-22 under 35 U.S.C. 102(e) as being anticipated by Bullard (U.S. Patent App. No. 2002/0091636). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to each of the independent claims. Specifically, in the spirit of expediting the prosecution of the present application, applicant has amended each of the independent claims to further distinguish applicant's claim language from the above reference, as follows:

"identifying contracts associated with the records by correlating at least one of the contracts with at least one aspect of the received records" (emphasis added - see this or similar, but not necessarily identical language in each of the independent claims).

Clearly, Bullard fails to make any mention such a specific technique for identifying contracts associated with the records, namely by correlating at least one of the contracts with at least one aspect of the received records, as claimed. Specifically, Bullard merely discloses that a "service contract 751 is decomposed by the policy server to produce a template that defines the service represented by the agreement 751. The

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template is fed to the service provisioning application 752 that actually produces a configuration file 752a that is sent out to the network 10 to configure network for a level of service based upon that contract 751." See paragraph [0187]. Clearly, there is not even a suggestion of a correlation of at least one of the contracts with at least one aspect of the received records, as claimed.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. This anticipation criterion has simply not been met, as noted above.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 5, the Examiner has relied on the following excerpts from the above reference, in addition to Figs. 31, 1-3, and 8 of such reference, to make a prior art showing of applicant's claimed technique "wherein a contract identifier is included as a component of the records" (see this or similar, but not necessarily identical language in each of the independent claims).

"[0187] Referring now to FIG. 31, a service management loop 750 includes a service provisioning application 752, a policy enabled network server 754 and an accounting process 756. In a typical example, an Internet Service Provider (ISP) and a customer will enter into a service agreement or contract 751 that will specify a level of service for the network. The contract 751 has requirements and conditions that are enforced by the policy enabled network 754. The service contract 751 is decomposed by the policy server to produce a template that defines the service represented by the agreement 751. The template is fed to the service provisioning application 752 that actually produces a configuration file 752a that is sent out to the network 10 to configure network for a level of service based upon that contract 751."

"[0191] As an example, a service contract may specify that a company "X" will be given 100% availability of a particular

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network device e.g., a router (not shown) and its corresponding service. In order to assure that level of service, the policy server 754 sends that requirement in a template to the provisioning service 752 to produce a configuration file 752a to configure the router to give company "X" preferred use of the router. Therefore, every time a packet from company "X's" network comes across the router, the packet will always be transmitted unless there is something wrong with the router. This may occur even if a packet of company "Y" which has a lower service level than company "X" is waiting in the router to be transmitted. The packet from company "Y" will wait because company "Y" is not paying for the quality of service that company "X" is paying for."

"[0192] In that case, the provisioning service configures 752 the policy enforcement mechanism that was put into the router in the network. How the policy was defined to the provisioning equipment is that there is a one-to-one relationship between the policy and what the accounting process 14 will monitor in the network. The accounting process 14 will be aware that company "X" contracted to have 100% availability from the router."

"[0193] The accounting process 14 will then take every source of information it has available and will construct an accounting record that reflects the level of service actually delivered to company "X." The accounting records produce are relative to the two components, i.e., the router and the customer. The accounting process 14 is flexible and can generate accounting records of any flow abstraction. In this process 750, the policy server 754 sends a flow based policy to the provisioning server 752. The provisioning server 752 uses a flow based policy to configure the network. That same flow based policy is passed to the accounting process 14 which can generate network accounting records NARS having metrics that can be used to match the same level of those flows. The output of the accounting process 14 will determine whether the quality of service, availability, etc. that was contracted for in the contract 751 was provided. Therefore the service management process 750 provides the level of service that was delivered at the same semantic level as the actual contract."

The reference paragraphs cited above teach the configuration of a network service based on a contract, the use of a policy server and provisioning service to configure a router for a preferred use based on a service contract, and the use of an accounting process to monitor a network and construct an accounting record to be compared to a service contract. However, no mention is made in the above language regarding the inclusion of a contract identifier "as a component of the records" (emphasis added), as claimed by applicant.

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Additionally, with respect to Claim 6, the Examiner has relied on the preceding excerpts ([0187], [0191]-[0193]) from the above reference, in addition to Figs. 31, 1-3, and 8 of such reference, to make a prior art showing of applicant's claimed technique "wherein a speed with which the records are aggregated is based on the contracts" (see this or similar, but not necessarily identical language in each of the independent claims).

As was mentioned above, the cited paragraphs teach the configuration of a network service based on a contract, the use of a policy server and provisioning service to configure a router for a preferred use based on a service contract, and the use of an accounting process to monitor a network and construct an accounting record to be compared to a service contract. However, applicant claims that the "speed with which the records are aggregated is based on the contracts" (emphasis added), in the claimed context. The above referenced paragraphs make no mention of applicant's claimed feature of basing the speed of record aggregation on a contract, as claimed.

Also, with regard to Claim 7, the Examiner has relied on the preceding excerpts ([0187], [0191]-[0193]), Figs. 31, 1-3, and 8, as well as the following excerpts from the above reference to make a prior art showing of applicant's claimed technique "wherein an amount of data processed while the records are aggregated is based on the contracts" (see this or similar, but not necessarily identical language in each of the independent claims).

"[0030] Referring now to FIG. 1, an exemplary arrangement 10 for collecting information from a network is shown. The network includes various network devices 12. The network devices 12 can be disparate, i.e., different equipment types, operating under different protocols and formats. The network devices 12 are coupled to an accounting process 14 via an equipment interface 16."

"[0031] The accounting process 14 includes a flow data collection layer 18 that runs as client processes with the equipment interfaces on or close to the network devices 12. Individual and multiple data collectors (not referenced) can be disposed at points of presence (POP) in a network 11. The accounting process 14 includes a flow aggregation and distribution process 17 that runs as a server process on a server 15. The accounting process 14 assembles the data into a format that can be used by billing or other user defined data consuming applications 20 that

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interface to the accounting process 14, through a data consuming application interface 22. Thus, the accounting process 14 collects via the data collector layer 18 multiple and diverse types of data from the network 11, normalizes the data into a consistent accounting record, and provides open interfaces to one or more applications, such as billing via the application interface 22."

"[0032] The network devices 12, e.g., switches, routers, remote access concentrators, and so forth can produce data of various types and formats which are all handled in the accounting process 14. Examples of the network devices 12 include a router or switch 12a, cable or telephone modems 12b, a flow probe 12c, a remote access concentrator 12d an Extranet switch 12e, a directory naming service (DNS) server 12f, a RADIUS server 12g and web server 12h. One particular source of data, the flow probe 12c will be described below in conjunction with FIGS. 24-28. The network devices 12 can include a "Remote Authentication Dial-In User Service" (RADIUS) server 12g that produces RADIUS accounting records using an existing RADIUS accounting process (not shown). The accounting process 14 can interface to the existing RADIUS accounting process and can use existing RADIUS records without modifying the existing RADIUS accounting environment. RADIUS is a well-accepted standard in the industry and is used across a number of different types of technologies (dial-in, cable, DSL, VoIP, etc.), with the most prominent being dial-in access. So, by supporting RADIUS records the accounting process 14 provides the ability to fit into an existing network environment without modification."

"[0033] The accounting process 14 enables users such as an Enterprise or an Internet Service Provider to maintain an existing accounting configuration. Information sources can include network traffic flow, RADIUS accounting data, RMON/RMON2 data, SNMP-based data, and other sources of network usage data. The accounting process 14 collects data via the data collector layer 16 from multiple disparate sources and produces new type of composite records. These new composite records results is new information which provides a source for network accounting, billing, management, capacity planning, and so forth."

"[0034] The accounting process 14, as will be described in FIG. 2, has a core process that can handle data records from each of the equipment types above, as well as other equipment types, and can provide data to each of the plurality of user-defined data consuming applications. This accounting process 14 provides flexibility in choosing data consuming applications that use accounting data. Such applications can include billing, enterprise charge-back or cost allocations, capacity planning, trending, application monitoring, user profiling and so forth."

As was mentioned above, the cited paragraphs teach the configuration of a network service based on a contract, the use of a policy server and provisioning service to configure a router for a preferred use based on a service contract, and the use of an

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accounting process to monitor a network and construct an accounting record to be compared to a service contract. Additionally, the cited paragraphs teach an accounting process that collects and normalizes data and produces composite records. Applicant, on the other hand, claims that “an amount of data processed while the records are aggregated is based on the contracts” (emphasis added), in the claimed context. The above referenced paragraphs make no mention of applicant’s claimed feature of basing the amount of data processed while the records are aggregated on a contract, as claimed.

Furthermore, with regard to Claim 9, the Examiner has relied on the preceding excerpts ([0191]-[0193]), Fig. 31, and the following excerpt from the above reference to make a prior art showing of applicant’s claimed “separating the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator” (see this or similar, but not necessarily identical language in each of the independent claims).

“[0190] A policy enable network 754 is build on the capabilities of address management, domain name management and so forth. Essentially in a policy enabled network, policy services produce a set of rules and applies those rules to a domain or problem set. The policy server communicates the rules to the accounting process 14 so that the accounting process 14 can determine what kind of records to generate. All of the information is described using data flows.”

As was mentioned above, the cited paragraphs teach the use of a policy server and provisioning service to configure a router for a preferred use based on a service contract, the use of an accounting process to monitor a network and construct an accounting record to be compared to a service contract, and the application of policy rules to the accounting process. However, applicant claims “separating the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator” (emphasis added), in the context claimed. No mention is made in the above cited prior art excerpt of the separate aggregation of each group by a separate aggregator, as claimed.

Again, the foregoing anticipation criterion has simply not been met by the above reference, as noted above. Thus, a notice of allowance or specific prior art showing of

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each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 23-26 below, which are added for full consideration:

"wherein the at least one aspect of the received records includes a customer identifier, session or flow source address, destination address, duration, time, date, type of server, and volume of data transferred" (see Claim 23);

"wherein the at least one aspect of the received records is selected from the group consisting of a customer identifier, session or flow source address, destination address, duration, time, date, type of server, and volume of data transferred" (see Claim 24);

"wherein the correlating includes correlating the at least one aspect of the received records with information from a plurality of locations" (see Claim 25); and

"wherein the locations are selected from the group consisting of a quality of service policy server, a network management system database, and a general packet radio service system (see Claim 26).

Again, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

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In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. AMDCP010).

Respectfully submitted,
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In re the application of:

Tal Givoly et al.

Application No. Unassigned

Filed: October 23, 2001

For: SYSTEM, METHOD, AND COMPUTER
PROGRAM PRODUCT FOR CONTRACT-
BASED AGGREGATION

Group Art Unit: Unassigned

Examiner: Unassigned

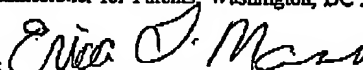
Atty. Docket No. XACTP010

Date: November 20, 2001

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on November 20, 2001.

Signed:



Erica L. Mann

INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §§ 1.56 AND 1.97(b)Commissioner for Patents
Washington, DC 20231

Dear Sir:

The references listed in the attached PTO Form 1449, copies of which are attached, may be material to examination of the above-identified patent application. Applicants submit these references in compliance with their duty of disclosure pursuant to 37 CFR §§ 1.56 and 1.97. The Examiner is requested to make these references of official record in this application.

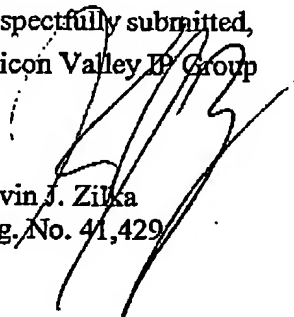
Atty Dkt No. XACTP010

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This Information Disclosure Statement is not to be construed as a representation that a search has been made, that additional information material to the examination of this application does not exist, or that these references indeed constitute prior art.

This Information Disclosure Statement is believed to be filed before the mailing date of a first Office Action on the merits. Accordingly, it is believed that no fees are due in connection with the filing of this Information Disclosure Statement. However, if it is determined that any fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 50-1351 (Order No. XACTP010).

Respectfully submitted,
Silicon Valley IP Group


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MAY 10 2006

Form 1449 (Modified) Information Disclosure Statement By Applicant (Use Several Sheets if Necessary)	Atty. Docket No. XACTP010	Application No.: Unassigned
	Applicant: Tal Givoly et al.	
	Filing Date: 10-23-01	Group Art Unit: Unassigned

U.S. Patent Documents

Examiner Initial	No.	Patent No.	Date	Patentee	Class	Sub-class	Filing Date
	A	6,052,797	04-18-00	Ofek et al.	714	6	08-20-98
	B	6,148,290	11-14-00	Dan et al.	705	1	09-04-98
	C	5,761,441	06-02-98	Bennett	395	235	08-29-95
	D						
	E						
	F						
	G						
	H						
	I						
	J						
	K						

Foreign Patent or Published Foreign Patent Application

Examiner Initial	No.	Document No.	Publication Date	Country or Patent Office	Class	Sub-class	Translation	
							Yes	No
	L	01/15044 A1	03-01-01	WO	G06F	17/60		
	M							
	N							
	O							
	P							

Other Documents

Examiner Initial	No.	Author, Title, Date, Place (e.g. Journal) of Publication
	R	
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Examiner		Date Considered

Examiner: Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.